



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONS 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



255954

REPLY TO THE ATTENTION OF:

**MAY 24 2006**

PROMPT REPLY NECESSARY  
CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

T.L. Diamond & Company, Inc.  
30 Rockefeller Plaza  
New York, NY 10112-0002  
Attn: Mr. Theodore L. Diamond

Re: Request for Information Pursuant to Section 104 of CERCLA for Eagle Zinc  
Company Site in Hillsboro, Illinois

Dear Mr. Diamond:

This letter seeks your cooperation in providing information and documents relating to the contamination of the Eagle Zinc Company Superfund Site in Hillsboro, Illinois ("Site"). A Superfund site is a site contaminated with high levels of hazardous substances that may present a threat to human health or the environment.

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request and attached questions (Attachment B) within 21 days of your receipt of this letter.

The United States Environmental Protection Agency ("U.S. EPA") is seeking to obtain information related to the generation, storage, treatment, transportation, and methods used to dispose of such substances that have been, or threaten to be, released from the Site. In addition, U.S. EPA will identify activities, materials, and parties that contributed to contamination at the Site. U.S. EPA believes that you might have information which may assist the Agency in its investigation of the Site.

Description of Legal Authority

The federal "Superfund" law (the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, et seq., commonly referred to as

environment posed by each site, and (3) clean up those sites in the order of the relative threats posed by each.

### Information Request

Under Section 104(e)(2) of CERCLA, 42 U.S.C. §9604(e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or to perform a cleanup.

While U.S. EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law.

Some of the information U.S. EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish U.S. EPA to treat the information confidentially, you must advise U.S. EPA of that fact by following the procedures outlined in Attachment A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist the Agency in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

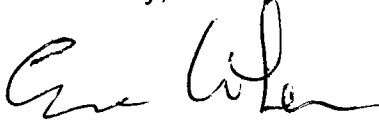
Instructions on how to respond to the questions in Attachment B to this document are described in Attachment A. Your response to this Information Request should be mailed to:

Thomas Krueger  
U.S. Environmental Protection Agency  
Emergency Enforcement & Support Section, C-14J

If you have additional questions about the history of the Site, the nature of the environmental conditions at the Site, or the status of cleanup activities, please contact Thomas Krueger at (312) 886-0562.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Cohen", written in a cursive style.

Eric Cohen, Chief  
Multi-Media Branch II  
Office of Regional Counsel

Enclosures

Attachment A  
Information Request  
to T.L Diamond & Company, Inc.

Instructions

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.
4. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, U.S. EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to U.S. EPA.
6. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42.U.S.C. §§9604(e)(7)(E) and (F), and Section 3007(b) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6927(b), and 40 C.F.R. §2.203(b).

If you make a claim of confidentiality for any of the information you submit to U.S. EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the expiration of a contract, etc.).

3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others; and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by U.S. EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to U.S. EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by U.S. EPA only to the extent permitted by Section 104(e) of CERCLA. If no such claim accompanies the information when it is received by U.S. EPA, then it may be made available to the public by U.S. EPA without further notice to you.

7. Disclosure to U.S. EPA Contractor. Information which you submit in response to this Information Request may be disclosed by U.S. EPA to authorized representatives of the United States, pursuant to 40 C.F.R. §2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that U.S. EPA may disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen days of receiving this Information Request.

8. Personal Privacy Information. Personnel and medical files, and similar files, the

be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Questions. If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

### Definitions

The following definitions shall apply to the following words as they appear in this Information Request.

1. The term "**documents**" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all non-identical copies.
2. The term "**hazardous substance**" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
3. The term "**identify**" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position or business.
4. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term "**identify**" means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.
5. The term "**material**" or "**materials**" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
6. The term "**person**" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
7. The term "**release**" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

8. The terms "**residue piles**" or "**residue materials**" shall have the same meaning as set forth in the March 2006 Feasibility Study Report, Eagle Zinc Company Site, Hillsboro, Illinois.
9. The term "**Site**" shall mean the Eagle Zinc Company Superfund Site located in Hillsboro, Illinois as described in the March 2006 Feasibility Study Report, Eagle Zinc Company Site, Hillsboro, Illinois.
10. The term "**waste**" or "**wastes**" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.
11. The term "**you**" or "**Respondent**" shall mean T.L. Diamond & Company, Inc.

Attachment B  
Requests

1. Describe the nature and extent of any ownership interest that Mr. Theodore Diamond ("Mr. Diamond") has and has had in T.L. Diamond & Company, Inc. ("TLD"), since 1983.
2. In "Attachment A" to the February 17, 2006 letter from Mr. John Ix (counsel for TLD) to Mr. Justin Savage, a \$250,000 loan from Mr. Diamond to TLD was referenced in response to Question No. 5. Please provide any documents setting forth the terms and conditions of the loan. If no such documents exist, state that in your response, and explain whether such loan documents ever existed, or whether the documents have been lost, misplaced, or destroyed.
3. In "Attachment A" to the February 17, 2006 letter from Mr. Ix (counsel for TLD) to Mr. Justin Savage, a \$216,432 loan from TLD to Mr. Diamond was referenced in response to Question No. 7. Please provide any documents setting forth the terms and conditions of the loan. If no such documents exist, state that in your response, and explain whether such loan documents ever existed, or whether the documents have been lost, misplaced, or destroyed.
4. Identify any loans from Mr. Diamond to TLD other than those identified in response to requests 2 and 3 above. Please provide any documents setting forth the terms and conditions of all such loans. If no such documents exist, state that in your response, and explain whether such loan documents ever existed, or whether the documents have been lost, misplaced, or destroyed.
5. Provide a history (e.g., payment dates, amounts received, etc.), of any dividends or other distributions received by Mr. Diamond from TLD since 1983.
6. Identify any contracts or arrangements for provisions of goods, services or equipment by Mr. Diamond to TLD since 1983. Please provide any documents setting forth the terms and conditions of all such contracts or arrangements. If no such documents exist, state that in your response, and explain whether such documents ever existed, or whether the documents have been lost, misplaced, or destroyed.
7. List the dates that the board of directors of TLD has met since January 1, 2001. For any such meetings, provide the minutes of any such meetings where any matters related to the Site were addressed. If minutes do not exist for a particular meeting, state that in your response, and explain whether such minutes ever existed, or whether the minutes have been lost, misplaced, or destroyed.
8. Provide the corporate records of TLD authorizing TLD to enter into the December 31, 2001 Administrative Order on Consent ("AOC") for the Site, including, without limitation, any board resolutions authorizing such action. If no such corporate records



9. At any time since 1983 has TLD consulted with Mr. Diamond or sought his advice or authorization or approval for any decisions regarding the generation, use, purchase, sale, treatment, cleanup - storage, disposal or other handling of the following at the Site: (a) the residue materials; (b) the residue piles; or (c) hazardous substances in the soil, surface water, or groundwater at the Site, including without limitation zinc and lead? Describe any such instances in detail.
10. Provide any documents prepared or received by Mr. Diamond that reference the following at the Site: (a) the residue materials; (b) the residue piles; or (c) hazardous substances in the soil, surface water, or groundwater at the Site, including without limitation zinc and lead.
11. At any time since 1983, did Mr. Diamond make or exercise control over decisions regarding the generation, use, purchase, sale, treatment, storage, cleanup, disposal or other handling of the following at the Site: (a) the residue materials; (b) the residue piles; or (c) hazardous substances in the soil, surface water, or groundwater at the Site, including without limitation zinc and lead? Describe any such instances in detail.
12. Describe any positions that Mr. Diamond has held with TLD , formal and/or informal since 1983. Your description should include, but not be limited to, the duties and responsibilities of each position; the actual tasks that Mr. Diamond performed, both routinely and occasionally, and the dates that Mr. Diamond held each position.
13. Provide any documents regarding TLD's efforts to sell the residue piles and/or residue materials as part of the closure of its manufacturing operations at the Site.
14. Identify any persons who since 1984 exercised actual control or who held significant authority to control at the Site the following: hazardous substances, waste disposal, environmental permitting, the residue materials, or the residue piles.
15. Did Mr. Diamond ever prepare or receive any reports or other documents discussing waste disposal practices or cleanup activities at the Site? If so, submit copies of such reports. If no such reports exist, state that in your response, and explain whether such reports ever existed, or whether the records have been lost, misplaced, or destroyed.
16. At any time since 1983 has TLD been required to receive Mr. Diamond's approval or concurrence when making any expenditures related to the Site? If so, please explain in detail.
17. For each and every question contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, then identify the persons from whom such information or documents may be obtained.
18. List all persons who you consulted with in the preparation of your responses.
19. If you claim in response to any of the above questions that responsive or relevant

20. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.

21. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.